

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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W14a

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APPEAL STAFF REPORT

SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal number.....A-3-SCO-00-076, **Pleasure Point Road Improvements**

ApplicantsSanta Cruz County Department of Public Works

AppellantsCommissioners Sara Wan and Dave Potter; Charles Paulden

Local government.....Santa Cruz County

Local decisionApproved with conditions (March 17, 2000)

Project location.....Within the public right-of-ways of 30th, 32nd, and 33rd Avenues, Hawes, Calla, and East Cliff Drives in the Pleasure Point region of the unincorporated Live Oak area of Santa Cruz County.

Project descriptionConstruct road, sewer, drainage, sidewalk and streetscape improvements on 30th, 32nd, and 33rd Avenues, and Hawes, Calla, and East Cliff Drives.

File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County Coastal Development Permit Application File 99-0842; ReCAP project for the Monterey/Santa Cruz region, including *Live Oak Access Strategy: Administrative Draft* (January 1997).

Staff recommendation ...**Substantial Issue Exists; Approval with Conditions**

Summary of staff recommendation: This is the substantial issue determination and de novo hearing for appeal number A-3-SCO-00-076 (the Commission previously opened and continued the substantial issue hearing for this matter on June 15, 2000). Staff recommends that the Commission find that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project. Staff subsequently recommends that the Commission approve the coastal development permit for this development subject to conditions designed to ensure that the public right-of-way is generally available for public parking purposes, and that runoff is adequately filtered and treated prior to discharge into the offshore Pleasure Point surf area that is a part of the Monterey Bay National Marine Sanctuary.



California Coastal Commission
January 2001 Meeting in Los Angeles

Staff: D.Carl Approved by:

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1. Staff Report Summary

The County approval that is the subject of this appeal is for a major public works project involving street improvements (including curbs, gutters, sidewalks, parking bays, sewer, drainage, and landscaping) along several streets near the ocean in the Pleasure Point area of Live Oak. The Santa Cruz County-approved street improvements would not use the full extent of the public right-of-way for these street segments. The area of public right-of-way not proposed for improvement ranges from 5 to 15 feet along 30th Avenue and Hawes Drive (or roughly 10% to 25% of the public right-of-way), up to approximately 25 feet along 32nd Avenue and Calla Drive (or roughly 50% of the public right-of-way). Much of this right-of-way area includes a variety of private encroachments.

The Appellants concerns fall generally into four areas: (1) maximizing public access opportunities in the Live Oak beach area; (2) protecting the public viewshed; (3) protecting marine resources; and (4) maintaining the unique character of the Pleasure Point community.

Background

The Live Oak coastal area provides an excellent range of public access and recreation opportunities. Walking, biking, skating, viewing, surfing, fishing, sunbathing, and more are among the recreational activities possible along the Live Oak shoreline. In addition, Live Oak provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. These varied coastal characteristics make the Live Oak shoreline unique in that, within a relatively small area, a diverse range of alternatives for enjoying the coast is available to different recreational users. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access complex.

The Live Oak beach area is an important recreational asset for Live Oak residents, other County residents, and visitors to the area. Parking is extremely limited in this area, and additional recreational



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amenities and improvements (such as through trails/sidewalks) are in high demand. Publicly available property on which to construct such improvements is lacking and rising coastal land costs limit the County's ability to purchase properties for public uses. This is particularly true in the Pleasure Point area. The LCP contains multiple policies and programs detailing the need for access and recreational enhancement in the Live Oak beach area; the Coastal Act likewise supports such goals and requires that access and recreational opportunities be maximized.

To comply with these LCP and Coastal Act access policies, street improvement projects (such as this) should consider the full use of Live Oak public lands for public rather than private uses. In the past, private development in this area has occurred where the public improvements did not take up the full width of the right-of-way. Such private encroachments into the public right-of-way (i.e. landscaping, fences, planter boxes – even houses) has significantly narrowed the space available for public uses such as parking on these beach streets. Previous research by the Commission in the Live Oak beach area indicates that, on average, approximately 15 feet (or about 30%) of each beach area public street right-of-way has been subject to encroachment by private development.

Substantial Issues

The LCP and Coastal Act protect existing public access areas, such as the Pleasure Point road rights-of-way, and require public access and recreation to be maximized. Most of the private encroachments under the terms of the project as approved by the County would be allowed to stay in place. These encroachments range from 5 to 15 feet (or roughly 10% to 25%) of the 30th Avenue and Hawes Drive right-of-way, up to 25 feet (or roughly 50%) of the Calla and 32nd Avenue right-of-ways. As a result, the necessary public improvements and future public uses are crowded into a smaller space. Also, because the project does not use the full right-of-way, potential public parking, trail, streetscape, and related public amenities are foregone in several instances. Likewise, future potential recreational trail improvements along East Cliff Drive may be prejudiced by the project.¹ Because of this, a substantial LCP conformance issue is raised.

The LCP and Coastal Act protect the public viewshed in Pleasure Point. Because the right-of-way would not be fully used under the County approval, public hardscape would be confined into a limited area as opposed to breaking up such hardscape with a greater amount of landscaping and other such visually softening features. Because of this, a substantial LCP conformance issue is raised.

In addition, the LCP and Coastal Act protect the offshore Monterey Bay National Marine Sanctuary and the offshore Pleasure Point surfing area. The County-approved project would increase impervious surfacing and allow for substantial additional storm drain facilities with only silt and grease traps to filter typical urban runoff pollutants. The runoff here drains directly into the Sanctuary at the main Pleasure Point surf area. Such urban runoff is known to contain a number of pollutants harmful to coastal water quality and recreational pursuits. Because of this, and because of the importance of the recreational

¹ There are plans for major street improvement projects on East Cliff Drive here at Pleasure Point and upcoast at Twin Lakes State Beach currently in the works. In addition, the County has indicated that the entire length of East Cliff Drive between the Cities of Santa Cruz (at the Santa Cruz Harbor) and Capitola (at Opal Cliffs) may eventually be improved.



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resource offshore at this location, a substantial LCP conformance issue is raised; similarly, there is a question as to conformance with the access and recreation policies of the Coastal Act as they apply to this project.

The LCP protects the unique Pleasure Point community character. The County-approved project would modify this character. As the first large-scale public street improvement project in this area, the project may set the tone for future street improvement efforts. Because of this, it is important to ensure that this project maximizes public access and recreation opportunities, and provides a model for future efforts; what we see from this project will most certainly be indicative of the future streetscape scene for Pleasure Point and Live Oak. With a number of other major planned street improvements projects in the works from the Applicant in the Live Oak beach area (including East Cliff Drive projects), the tone set by this project is likely to affect the long term future of the area. As such, the County-approved project design raises questions of compatibility with the special community character in Pleasure Point and a substantial LCP conformance issue is raised

Thus, Staff recommends that the Commission find that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project.

Project Modifications to Achieve Coastal Act & LCP Consistency

To ensure LCP and Coastal Act consistency, conditions are included to maximize public access and recreation opportunities as directed by the certified County LCP and the Coastal Act. This is achieved by ensuring public parking on both sides of the affected streets, installation of public parking signage and striping, removal of some private encroachments in the public right-of-way, and notification to affected property owners regarding the extent and public nature of the affected street rights-of-way. In addition, all runoff from the project is required to be filtered and treated by an engineered filtration system that will be tested in a larger water quality monitoring program. See the recommended Special Conditions.

Future Planning

The situation of continued private development into the public street rights-of-way in the Live Oak beach area must be addressed because of its impacts on public access. With major street improvement projects, such as that proposed for 30th Avenue in this case, reclamation of the right-of-way is generally feasible. However, reclamation in absence of physical improvements in the reclaimed area (such as pathways, street landscaping, curbs & gutters, etc.) appears to be impractical. Such is the case with this project in that only drainage and sewer improvements within the existing paved area are planned in the side streets. In addition, ongoing encroachments into the public street rights-of-way are not rectified when these streets are not part of these larger projects. In some cases, too, for a variety of reasons, it may be infeasible to reclaim the right-of-way (for example, to do so would remove a row of heritage trees). In order to address the public's interest in the public rights-of-way, the County is encouraged to pursue a two-pronged program that includes both physical reclamation (such as in this subject appeal) and programmatic planning efforts to formally acknowledge the issue.



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In either case, the issue of continued private development in the public right-of-ways should be explicitly addressed by the County within an LCP planning context. Not only has the public allowed private use of expensive coastal real estate, but other uses beneficial to the public for this area such as parking, biking, walking, sitting, and viewing have been foregone. The loss of this opportunity to provide public amenities is particularly important in the Live Oak beach area because of its high recreational values for all Live Oak residents, other County residents, and visitors.

If some lost street right-of-ways are not going to be completely reclaimed for public uses when individual developments are proposed and/or the County pursues street improvement projects, the County should develop an alternative LCP policy to address private development in the public street right-of-way until such time as the land is reclaimed. For example, a rental fee could be charged for each square foot of private encroachment onto public land within the immediate beach area. To mitigate the impacts of the lost public space, this fee could then be earmarked for a systematic program of beach area enhancements (e.g., vista points, parking, signing, recreational trails, landscaping, increased maintenance, etc.) within the fee area. Such improvements could also have the added benefit of addressing perceived resident-visitor conflict within the Live Oak beach area. In this way, public ownership of the street right-of-way would be explicitly recognized, and a fair and equitable funding source (through the rental fees) would be created. A similar LCP program designed to address private encroachments has been successfully implemented in Newport Beach since 1991.

Furthermore, until such time as such a program is in place, and until such time as street improvements are proposed for any particular street, the County may wish to separately pursue necessary drainage and/or sewer improvements in the Live Oak beach area. The sewer collection and transmission system in this area has been plagued by inflow and infiltration problems that ultimately impact adjacent marine resources and ocean recreational uses. Sewer line upgrades, repairs, and/or improvements within the existing roadway prism to address these types of issues should be encouraged. Similarly, substandard streets without curbs, gutters, and/or other runoff collection apparatus have resulted in flooding-related problems in Live Oak beach area streets. On specific streets where these problems have been documented, storm drain and runoff apparatus should be pursued; again, within the existing roadway prism.

Conclusion

The Live Oak beach area is an important recreational asset for Live Oak residents, other County residents, and visitors to the area. Parking is extremely limited in this area, and recreational amenities and improvements (such as through trails/sidewalks) are in high demand. Publicly available property with which to construct such improvements is lacking and high coastal land costs limit the ability of the County to purchase needed land. This is particularly true in the Pleasure Point area. The LCP contains multiple policies and programs detailing the need for access enhancement in the Live Oak beach area; the Coastal Act likewise supports such goals. Within this context, it is incumbent upon public agencies involved to maximize the use of Live Oak public lands for public purposes. In this case, the County-approved project does not adequately protect and enhance public recreational access.



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Although one option in this case would be to require full use of the entire right-of-way for public improvements, the reality is that, other than 30th Avenue, only limited drainage/sewer lines are planned. If parking can be guaranteed on these side streets, it makes little practical sense to require removal of private development in right-of-way areas that wouldn't otherwise be used for public purposes. To do so would be aesthetically displeasing, would alter the informal character of these Pleasure Point streets, and would not result in any additional public access enhancements. By ensuring appropriate public parking, and notifying affected property owners of the true nature and extent of the right-of-way, public access will be improved in this area consistent with the special character of Pleasure Point. These improvements can be expected to be enjoyed by Live Oak residents, other County residents, and visitors to the area alike.

Staff therefore recommends approval of the project with conditions.

2. Local Government Action

On March 17, 2000, the Santa Cruz County Zoning Administrator approved the proposed project subject to multiple conditions. See Exhibit B for the County's staff report, findings and conditions on the project. Notice of the Zoning Administrator's action on the CDP was received in the Commission's Central Coast District Office on Thursday, May 11, 2000. The Commission's ten-working day appeal period for this action began on Friday, May 12, 2000 and concluded at 5pm on Thursday, May 25, 2000. Two valid appeals (see below) were received during the appeal period.

3. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is a major public works facility, and portions of the project are located between the sea and the first public road paralleling the sea and/or within 300 feet of the mean high tide line.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo



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hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. A portion of this project is located between the nearest public road and the sea and thus, this additional finding must be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

4. Appellants' Contentions

A. Appeal of Commissioners Sara Wan and Dave Potter

The two Commissioner Appellants contend that the County-approved project raises substantial issues with respect to the project's conformance with core LCP issues regarding access, recreation, scenic and water quality issues. Please see Exhibit C for the Commissioner Appellants' complete appeal document.

B. Appeal of Charles Paulden

Charles Paulden contends that the proposed project would negatively impact the special character of the Pleasure Point community, the offshore surfing area, and the onshore built and natural environment. Please see Exhibit D for Mr. Paulden's complete appeal document.

Please note that Mr. Paulden's appeal alleges inconsistencies with a large number of County objectives, policies, and programs. Roughly half of those references cited in the appeal are General Plan policies and not LCP policies. In addition, a large number of others are not specifically applicable to the project at hand (for example, the cited wastewater treatment policies do not apply to stormwater runoff). As such, not all policy references in Mr. Paulden's appeal document are contained in the "applicable policies" sections of this staff report. The complete Santa Cruz County LCP is available for review at the Commission's Central Coast District office and is a substantive file document for these findings. In any case, Mr. Paulden's LCP contentions are addressed in these findings.

C. Summary of Appeal Issues

The Appellants contentions fall generally into four areas: (1) maximizing public access opportunities in the Live Oak beach area; (2) protecting the public viewshed; (3) protecting marine resources; and (4) maintaining the unique character of the Pleasure Point community. Each of these is discussed in the



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findings that follow.

5. Procedural History (Post-County Action)

On June 15, 2000, the Commission opened and continued the substantial issue hearing on the appeal because the County administrative record on this matter had not yet been received and thus Commission staff was unable to prepare a staff report with a full analysis and recommendation in time for the Commission's June meeting. Since that time, Commission staff has been working closely with County staff to address appeal issues and, as reflected in the recommended conditions, have mutually agreed to certain project modifications that would ensure Coastal Act and LCP consistency. The County Board of Supervisors has indicated that they prefer not to alter the project before Commission action; thus, they will evaluate the final conditions that the Commission may attach to its action on the proposal to determine whether or not they are acceptable.

6. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

***Motion.** I move that the Commission determine that Appeal Number A-3-SCO-00-076 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

***Staff Recommendation of Substantial Issue.** Staff recommends a **no** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.*

***Resolution To Find Substantial Issue.** The Commission hereby finds that Appeal Number A-3-SCO-00-033 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.*

7. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development.



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Motion. *I move that the Commission approve Coastal Development Permit Number A-3-SCO-00-076 pursuant to the staff recommendation.*

Staff Recommendation of Approval. *Staff recommends a yes vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.*

Resolution To Approve The Permit. *The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the Santa Cruz County Local Coastal Program, and that it is located between the sea and the first public road nearest the shoreline and it will be in conformity with the access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

8. Conditions of Approval

A. Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is



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the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

- 1. Supplemental Striping and Encroachment Removal Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Supplemental Striping and Encroachment Removal Plan to the Executive Director for review and approval. The Plan shall provide for white striping along both sides of the entire length of 32nd Avenue, Hawes Drive, and Calla Drive. The white striping shall be located along the drainage swales and shall provide adequate width between the striping and any residential improvements to allow a vehicle to be parked (i.e., eight feet). For any parking areas defined by the white striping within the County right-of-way that would not provide adequate parking width, the intervening private development encroachment shall be removed from the right-of-way.

The Plan shall be submitted with evidence of review and approval by the appropriate Santa Cruz County official.

The Plan shall indicate that the County shall, in perpetuity, keep the parking areas so defined on 32nd Avenue, Hawes Drive, and Calla Drive free of private development that might preclude public parking. Upon notification from interested parties, including but not limited to the Coastal Commission, that private development is adversely impacting the public's ability to park on these streets, the County shall have 30 days within which to investigate and remove any offending encroachments. If there is a question as to whether or not any private development in the County right-of-way is impacting the public's ability to park on these streets, then the Executive Director shall be consulted and the Executive Director's opinion shall govern as to whether the private development must be removed.

The Permittee shall undertake development in accordance with the approved Plan. Any proposed changes to the approved Revised Plans shall be reported to the Executive Director. No changes to the approved Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

- 2. Sign Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Sign Plan to the Executive Director for review and approval. The Plan shall provide for:
 - (a) Appropriate signs at each intersection of 30th Avenue, 32nd Avenue, and 33rd Avenue with East Cliff Drive, Hawes Drive, and Calla Drive indicating that public parking is provided to the right of the white striped lines for the length of the each street.
 - (b) Appropriate signs to identify 30th Avenue as a public access route to the shoreline at Pleasure Point. At a minimum, such signs shall be posted at the intersection of Portola Drive and 30th Avenue and both ends of the public access pathway opposite 30th Avenue between East Cliff



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Drive and Pleasure Point Drive.

- (c) Immediate removal of all signs not posted by Santa Cruz County that restrict general public parking. The Plan shall indicate that the County shall, in perpetuity, keep 30th Avenue, 32nd Avenue, 33rd Avenue, East Cliff Drive, Hawes Drive, and Calla Drive free of privately posted signs restricting general public parking. Upon notification from interested parties, including but not limited to the Coastal Commission, that any such sign is adversely impacting the public's ability to park on these streets, the County shall have 30 days within which to investigate and remove any offending signs. If there is a question as to whether or not any private sign is impacting the public's ability to park on these streets, then the Executive Director shall be consulted and the Executive Director's opinion shall govern as to whether the sign must be removed.
- (d) Identification of any signs posted by Santa Cruz County that restrict parking in any way on 30th Avenue, 32nd Avenue, 33rd Avenue, East Cliff Drive, Hawes Drive, and Calla Drive. Each County sign so identified shall be accompanied by an explanation as to why parking must be restricted (e.g., to ensure access to a fire hydrant). If the Executive Director does not concur that parking should be restricted as indicated, the Permittee shall submit a filed application for a coastal development permit for any such sign(s) within 30 days of notification by the Executive Director.

The Sign Plan shall be submitted with evidence of review and approval by the appropriate Santa Cruz County official.

The Permittee shall undertake development in accordance with the approved Sign Plan. Any proposed changes to the approved Sign Plan shall be reported to the Executive Director. No changes to the approved Sign Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

3. Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Drainage Plan to the Executive Director for review and approval. The Plan shall provide for the installation of two engineered filtration mechanisms specifically designed to remove vehicular contaminants and other typical urban runoff pollutants² more efficiently than a standard silt and grease trap at two points nearest as possible to the storm water line discharge into the Monterey Bay. The Drainage Plan shall account for the following:

- (a) The drainage system shall be designed to filter and treat (i.e., a physical and/or chemical reduction of pollutants achieved through active filtration) the volume of runoff produced from

² Typical urban runoff pollutants describes constituents commonly present in runoff associated with precipitation and irrigation. Typical runoff pollutants include, but are not limited to: paints, varnishes, and solvents; hydrocarbons and metals; non-hazardous solid wastes and yard wastes; sediment from construction activities (including silts, clays, slurries, concrete rinsates, etc.); ongoing sedimentation due to changes in land cover/land use; nutrients, pesticides, herbicides, and fertilizers (e.g., from landscape maintenance); hazardous substances and wastes; sewage, fecal coliforms, animal wastes, and pathogens; dissolved and particulate metals; and other sediments and floatables.



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each and every storm event up to and including the 85th percentile 24-hour runoff event prior to its discharge to the Monterey Bay. The drainage system and its individual components (such as drop inlets and filtration mechanisms) shall be sized according to the specifications identified in the California Storm Water Best Management Practice Municipal Handbook (California Storm Water Management Task Force, March 1993);

- (b) All vehicular traffic and parking areas shall be swept and/or vacuumed at regular intervals and at least once prior to October 15th of each year. Any oily spills shall be cleaned with appropriate absorbent materials. All debris, trash and soiled absorbent materials shall be disposed of in a proper manner. If wet cleanup of any of these areas is absolutely necessary, all debris shall first be removed by sweeping and/or vacuuming, all storm drains inlets shall be sealed, and wash water pumped to a holding tank to be disposed of properly and/or into a sanitary sewer system.
- (c) All drainage system elements shall be permanently operated and maintained. At a minimum:
 - (1) All storm drain inlets, traps/separators, and/or filters shall be inspected to determine if they need to be cleaned out or repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) prior to April 15th each year; and (3) during each month that it rains between November 1st and April 1st. Clean-out and repairs (if necessary) shall be done as part of these inspections. At a minimum, all traps/separators and/or filters must be cleaned prior to the onset of the storm season, no later than October 15th of each year; and,
 - (2) Debris and other water pollutants removed from filter device(s) during clean-out shall be contained and disposed of in a proper manner; and
 - (3) All inspection, maintenance and clean-out activities shall be documented in an annual report submitted to the Executive Director no later than June 30th of each year.
- (d) The Permittee is encouraged to develop connections from the storm drain system to the sanitary sewer system to allow polluted runoff to be directed from the storm drain system to the sanitary sewer, particularly during times of low-volume flows, wet street cleaning episodes, or hazardous spills.
- (e) It is the Permittee's responsibility to maintain the drainage system in a structurally sound manner and its approved state.

The Drainage Plan shall include a monitoring plan component to account for the following:

- (f) The Permittee shall monitor the runoff from the replacement outfalls at regular intervals for a minimum of 5 years. The same monitoring shall take place at two nearby ocean outfalls between the replacement outfall and 41st Avenue: (1) an outfall draining a similar area of the Pleasure Point street system where the runoff has been filtered through standard silt and grease traps only; and (2) an outfall draining a similar area of the Pleasure Point street system where the runoff has not been filtered.



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- (g) All monitoring measures, including, but not limited to a description of pollutants to be monitored and sampling methodologies shall be identified and approved by the Executive Director. The sampling program shall be designed to quantitatively assess the effectiveness of each storm drain filtration device and the costs associated with maintenance of the product. Sampling protocols shall meet currently accepted professional standards (i.e., as outlined in *Monitoring Guidance for Determining the Effectiveness of Nonpoint Source Controls* (US EPA, 1997) and/or *NPDES Stormwater Sampling Guidance Document* (US EPA, 1992)) and must be approved by both the Executive Director and the Executive Officer of the Central Coast Regional Water Quality Control Board.
- (h) The Permittee shall prepare annual reports (for a minimum of 5 years) that shall be submitted to the Executive Director for review and approval. The reports shall provide a breakdown and comparison of the constituent contaminants found in the runoff from the replacement outfall and the two comparison outfalls, and shall include a cost effectiveness evaluation of the filtration mechanisms and other management practices employed in each case.
- 4. Notification of Encroachments into the Right-of-Way.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Notification Letter to the Executive Director for review and approval. At a minimum, the Notification letter is intended to inform all property owners and residents along the affected streets (i.e., 30th Avenue, 32nd Avenue, Hawes Drive, and Calla Drive) of the extent of the public right-of-way for each respective street, the need to maintain the 8 foot public parking area to the right of the white striping on the affected streets, and the need to keep the area free of privately-posted signs that act to restrict public parking in the public right-of-way. The Notification Letter shall be sent to each property owner and resident along the affected streets within 30 days of the Executive Director's approval of the Notification Letter.
- 5. Santa Cruz County Conditions.** All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the California Coastal Act remain in effect (Santa Cruz County Application Number 99-0842; see Exhibit B). To the extent such Santa Cruz County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-3-SCO-00-076, such conflicts shall be resolved in favor of the conditions for Coastal Development Permit Number A-3-SCO-00-076.

Recommended Findings and Declarations

The Commission finds and declares as follows:

9. Project Description



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A. Project Location

The proposed street improvement project is located in the Pleasure Point region of the unincorporated Live Oak area of Santa Cruz County.

1. Regional Setting

Situated on the northern shore of the Monterey Bay, Santa Cruz County is bordered to the north and south by San Mateo and Monterey Counties. Santa Cruz County is characterized by a wealth of natural resource systems ranging from mountains and forests to beaches and the Monterey Bay itself. The Bay has long been a focal point for area residents and visitors alike providing opportunities for surfers, fishermen, divers, marine researchers, kayakers, and boaters, among others. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore became part of the Monterey Bay National Marine Sanctuary – the largest of the 12 such federally protected marine sanctuaries in the nation.

Santa Cruz County's coastal setting, its mild climate, and multicultural identity combine to make the area a desirable place to both live and visit. As a result, Santa Cruz County has seen extensive development and regional growth over the years. In fact, Santa Cruz County's population has nearly doubled since 1970 alone with projections showing that the County will be home to over one-quarter of a million persons by the year 2000.³ This growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services but also the need for parks and recreational areas. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, coastal recreational resources are seen as a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems such as that found in Live Oak. With Santa Cruz County beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in Live Oak.

Live Oak is part of a larger area including the Cities of Santa Cruz and Capitola that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches accessed by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including San Francisco and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains. As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

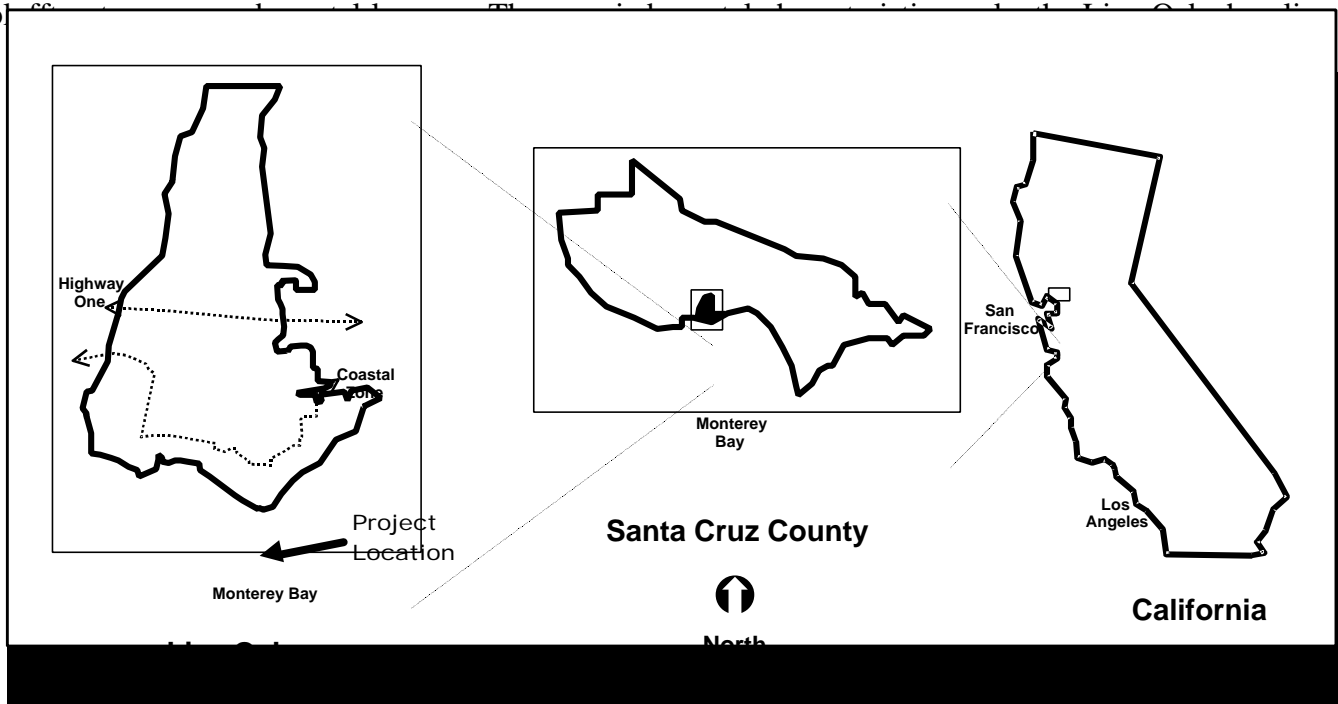
³ Census data from 1970 shows Santa Cruz County with 123,790 persons; by 1996, California Department of Finance estimated that this number had increased to 243,000 persons; Association of Monterey Bay Area Governments (AMBAG) projections show that the population was expected to increase to 259,905 by the year 2000.



See figure below and Exhibit A for maps of project location.

2. Live Oak Area

Live Oak represents the unincorporated segment of Santa Cruz County located between the City of Santa Cruz and the City of Capitola. The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, b



unique in that a relatively small area can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access complex.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will



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likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.).⁴ Given that the beaches are the largest public facility in Live Oak, this pressure will be particularly evident in the beach area.

3. Pleasure Point Streets

The proposed project is located on several streets within the Pleasure Point region of Live Oak. The Pleasure Point area is a dense residential area fronting the world-renowned Pleasure Point surfing area extending downcoast from Soquel (aka Pleasure) Point. Offshore, rolling waves engender throngs of visitors year-round. Onshore, narrow streets, almost all lacking curbs, gutters, or sidewalks, are fronted by nearly fully built out residential development. The proposed project would take place within the public right-of-ways of 30th, 32nd, and 33rd Avenues, and Hawes, Calla, and East Cliff Drives. East Cliff Drive is the main laterally-running street in the coastal Live Oak area, and serves as the primary through coastal trail from the City of Santa Cruz to Capitola. 30th Avenue serves as a main accessway for visitors, connecting inland streets to the coast from Portola Drive, while the other streets provide more localized circulation and parking. See Exhibit page 1 of Exhibit A.

B. Project Description

Each of the streets involved in the proposed project would be modified in different ways:

- **30th Avenue:** new curbs, gutters, storm drains, and a sidewalk along the west side of the street; replace sewer line; repaving. Approximately 1,200 feet of street improvements.
- **32nd Avenue, Hawes Drive, and Calla Drive:** new paved drainage swales and storm drains; replace sewer line; repaving. Approximately 1,800 feet of street improvements.
- **33rd Avenue:** new sewer clean-out line and new storm drains.
- **East Cliff Drive:** replace storm drain; limited new curbs and gutters to match existing at the corner of East Cliff and 30th; repaving as necessary.

In addition, the Applicant proposes to replace the existing storm outfall at Pleasure Point. Runoff from the street area involved in the proposed project would be conveyed first through silt and grease traps, and then through the replaced storm drain line and on into Monterey Bay.

See Exhibit A for proposed site plans.

C. County Approval

⁴ The LCP identifies Live Oak at buildout with a population of approximately 29,850 persons; based on the County's recreational formulas, this corresponds to a park acreage of 150-180 acres. Though Live Oak accounts for less than 1% of Santa Cruz County's total acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.



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The County approved the project subject to a number of conditions. In general, the County findings characterize the project as a basic road improvement project designed to improve pedestrian and vehicular access, and improve drainage, in an area of Live Oak where such improvements are generally lacking. See Exhibit B for the County staff report, findings, and conditions approving the Applicant's proposed project.

10. Substantial Issue Findings

The Appellants contentions fall generally into four areas: public access and recreation, visual resources, marine and offshore recreational resources, and community character. Each of these is discussed in detail in the findings that follow. As summarized below, these issues raise a substantial issue with respect to the project's conformance with the Santa Cruz County LCP.

A. Access and Recreation

1. Applicable Policies

Similar to the Coastal Act, the LCP encourages maximum public access and requires the protection of existing public access and recreation areas. The LCP is filled with policies reflecting these general Coastal Act inspired goals including:

LCP Land Use (LUP Chapter 2) policies identifying public recreational use as a higher priority than private residential use in the public street right-of-way, including.

LUP Objective 2.22 Coastal Dependent Development. To ensure priority for coastal-dependent and coastal-related development over other development on the coast.

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone:

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

LCP Circulation (LUP Chapter 3) policies encouraging a coordinated recreational circulation system for access to beach recreational areas and giving priority to road improvements that provide access to coastal recreational resources, including:

LUP Policy 3.8.7 Recreation. Plan bicycle routes to facilitate access to recreational areas such



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as regional parks, beach areas, and major tourist commercial/recreational facilities. Promote recreational bicycle routes to promote “eco tourism”.

LUP Policy 3.14.1 Capacity. *Reserve capacity on the existing County road system for recreational traffic.*

LUP Policy 3.14.2 Priority to Recreational Improvements. *In the development of transportation improvement programs, consider giving priority to road improvements which provide access to recreational resources.*

And finally, LCP Parks, Recreation, and Public Facilities (LUP Chapter 7) policies and programs generally protecting existing public access and encouraging public access and recreational enhancements such as public parking, trails, and other facilities to increase enjoyment of coastal resources and to improve access within the Live Oak coastal region, including:

LUP Objective 7.1a Parks and Recreation Opportunities. *To provide a full range of public and private opportunities for the access to, and enjoyment of, park, recreation, and scenic areas, including the use of active recreation areas and passive natural open spaces by all ages, income groups and people with disabilities with the primary emphasis on needed recreation facilities and programs for the citizens of Santa Cruz County.*

LUP Objective 7.7a Coastal Recreation. *To maximize public use and enjoyment of coastal recreation resources for all people, including those with disabilities, while protecting those resources from the adverse impacts of overuse.*

LUP Objective 7.7b Shoreline Access. *To provide a system of shoreline access to the coast with adequate improvements to serve the general public and the coastal neighborhoods which is consistent with the California Coastal Act, meets public safety needs, protects natural resource areas from overuse, protects public rights and the rights of private property owners, minimizes conflicts with adjacent land uses, and does not adversely affect agriculture, subject to policy 7.6.2.*

LUP Program 7.7a (Improve Parking). *Improve existing parking areas through the use of fencing, striping, landscaping, bike racks, and safety improvements; provide safe stairways for beach access as part of the program to upgrade vehicular parking. (Responsibility: Public Works, Board of Supervisors)*

LUP Program 7.7b (Increase Live Oak Parking). *Increase parking opportunities to serve visitors to the Live Oak coastline in locations where such facilities are feasible and compatible with the neighborhood and the natural setting. Provide on- and off-street parking improvements and facilities within walking distance of the beaches and bluffs, or located at more remote locations and linked by shuttle transportation. Identify appropriate locations and improvements in cooperation with the local community. (Board of Supervisors, Planning Department, County Parks, Public Works)*



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LUP Program 7.7f (Establish Access Signing). Establish an access signing program which:

- (1) Removes incorrect, misleading, and confusing signs.*
- (2) Develops, installs, and maintains standard signs for primary destinations and neighborhood accessways and designates appropriate locations for these signs. (Responsibility: County Parks, Public Works)*

LUP Policy 7.6.3 Utilization of Existing Easements. Seek to utilize existing publicly owned lands where possible to implement the trail system, subject to policy 7.6.2.

LUP Policy 7.6.8 Trail Funding and Construction. When utilizing roadside betterment funds in the development of bicycle, pedestrian and equestrian trails, construct such trails off the pavement within the public right-of-way and separated from traffic by an appropriate distance. Include trail design and construction in all public road development projects on designated trail routes, subject to policy 7.6.2.

LUP Policy 7.7.1 Coastal Vistas. Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...

LUP Policy 7.7.4 Maintaining Recreation Oriented Uses. Protect the coastal blufftop areas and beaches from intrusion by nonrecreational structures and incompatible uses to the extent legally possible without impairing the constitutional rights of the property owner, subject to policy 7.6.2.

LUP Policy 7.7.10 Protecting Existing Beach Access. Protect existing pedestrian...and bicycle access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights.... Protect such beach access through permit conditions...

LUP Policy 7.7.11 Vertical Access. Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, to beaches and/or increases the recreational demand. If such impact will occur, the County will obtain as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns...

2. County-Approved Project

The County-approved project can and should be considered a street improvement project designed with public access in mind. Clearly, the County was working towards the goals enumerated in the LCP of improving coastal recreational access including formalized parking and sidewalks to enhance the coastal recreational experience for visitors and residents alike. In terms of parking, the County-approved project would provide formal parking along both sides of 30th Avenue and, as such, would not generally result in



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the loss of any existing on-street parking there. In fact, by formalizing the street edges along 30th Avenue, a net parking gain might be realized given that the undeveloped street edges in many cases are developed in ways that preclude parking (see below). On the other side streets, the County has not proposed any developments that would fall outside of the existing roadway prism; accordingly, the project would not impact the existing access situation there either. It is clear to the Commission that the County has approached the project mindful of the public's ability to access this special area of coast.

However, the real issue with this project is not so much what it is, but rather the degree to which it falls short of addressing public access and recreational issues in light of the range of coastal access issues in the project area and the Live Oak beach area region overall. In other words, the question is whether or not the project has gone far enough towards the LCP and Coastal Act goals of maximizing access and protecting existing public access opportunities given the current state of inadequate parking and related coastal access in the Pleasure Point area.

3. Consistency with Applicable LCP Policies

A. Live Oak Beach Area Parking Background

Live Oak beachgoers traveling by automobile have long found parking spaces to be a scarce commodity in the beach area. Those beachgoers in need of parking spaces include Live Oak residents who do not live directly next to the beach, Live Oak residents who choose to drive for other reasons (e.g., those traveling with small children or with beach equipment), other Santa Cruz County residents traveling to Live Oak beaches, and visitors from out of the area. Further, given that many beach area parcels lack sufficient off-street parking, beach area residents also require beach area parking spaces. With over one million persons each year utilizing Live Oak beaches and jockeying for a limited number of parking spaces, there is an opportunity to enhance both resident and visitor enjoyment of the beach area through parking improvements.⁵

Given that the model of a large parking facility directly associated with a beach area (e.g., as is often found at State Parks) is not present in Live Oak, beach parking supply has long been an issue in Live Oak. In fact, the original LCP parking assessments from the late 1970's identified the Live Oak beach area as having the "most severe parking deficiencies" in Santa Cruz County with an estimated parking deficit of 745 parking spaces.⁶ Unfortunately, in the time since the LCP's parking assessment, three informal beach area parking lots that had served as primary parking areas have been lost to private development and most of a fourth to a storm event.⁷ In tandem with the lack of new parking facilities, the continuing popularity of Live Oak beaches suggests the probability of an increased parking deficit

⁵ LUP Coastal Recreation Programs 7.7.a and 7.7.b agree with this assessment specifically citing the need to "increase parking opportunities to serve visitors to the Live Oak coastline" and to "improve existing parking areas."

⁶ As described in the LCP's public access working paper and the LCP's shoreline access assessment.

⁷ Parking lots along East Cliff Drive at 14th and 21st Avenues have been otherwise developed, another at 18th Avenue has been closed to the public, and the Twin Lakes State Beach parking lot was mostly destroyed during 1979-80 winter storms.



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today.

Formal beach parking areas in Live Oak are confined to the few scattered parking lots that currently supply about 200 parking spaces. Over one-half of these parking lot spaces are found in private, pay parking lots inland from Twin Lakes State Beach on 7th Avenue that allow for some weekend beach use with the other half in public lots at Moran Lake (40 spaces) and 41st Avenue (54 spaces). Given that a parking fee is charged during summer weekend and holidays at both the private lots and the Moran Lake parking lot, only the parking lot at 41st Avenue and East Cliff Drive currently provides free public parking on a year-round basis.

Although the scattered parking lots provide a valuable service in the beach area, the bulk of the beach parking supply is provided by on-street parking spaces. In particular, given that there are no beach parking lots from Schwann Lake through to Moran Lake, on-street parking is the only option for the high use beach areas of Black's Point, Sunny Cove and Santa Maria Cliffs/26th Avenue Beaches. Likewise, Pleasure Point area streets provide nearly all parking for the offshore surf recreational area. As a result, Live Oak beach neighborhood streets become the main parking 'facility' when beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area look for beach parking. However, these parking seekers are challenged to find legal and safe parking arrangements for their vehicles.

Those seeking on-street parking spaces near to the Live Oak beaches must contend with an escalating series of issues, each of which removes a portion of the public parking space supply. First, given that the streets between East Cliff Drive and the ocean are narrowed to an average of 35 feet (see encroachments background below), there is limited space available to accommodate both parked cars and through traffic lanes. Second, the lack of a formal street edge (e.g., curbs and gutters) allows individual property owners to define the edge of the street in ways which reduce available parking spaces (e.g., with planters, pull-in parking areas, etc.). Third, an inconsistently applied traffic lane striping program (i.e., only some streets are striped and only some of these on both sides of the street), removes beach area parking by defining a space along the street that is too narrow to park a car. Fourth, 'no parking' signs, both those posted by private citizens and by County Public Works, further reduce available parking spaces. And finally, where on-street parking spaces are still available on Live Oak beach area streets, a Live Oak Parking Program (LOPP) permit fee is charged during peak user times of the year.⁸

In general, resident-visitor conflict can be alleviated and public enjoyment of the beach area enhanced through parking improvements. In terms of beach parking lots, though opportunities for additional lots are scarce due to the mostly developed nature of the beach area, there are a few available locations along

⁸ The LOPP began in the summer of 1981 as a means to relieve traffic and parking congestion in the Live Oak beach neighborhoods and it has been in operation every summer weekend and holiday since. Though overall congestion remains, the LOPP fee helps to pay for enforcement operators in the beach area who have contributed to more orderly parking in the beach area. However, by charging a beach parking fee for the use of public streets, the LOPP has also decreased parking opportunities for those who do not live within the LOPP zone (i.e., other Live Oak residents, other Santa Cruz County residents, and other visitors to the beach area), particularly those of low income. Though only assessed in the Live Oak beach area, the parking fees and any fines are not directly reinvested in Live Oak for parking improvements; rather, these monies go to the County general fund.



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East Cliff Drive that could be pursued to relieve parking pressure in the beach neighborhoods (e.g., along Coastview Drive at Corcoran Lagoon). It is more likely, however, given the costs of land acquisition and development for parking lots, that on-street parking improvements are the best hope for addressing parking concerns in the Live Oak beach area. It is for this reason that major street improvement projects such as the subject appealed project must be critically examined for their ability to address LCP public access parking concerns.

B. Live Oak Beach Area Encroachments Background

In general, Live Oak beach area streets are very narrow because of private encroachments into the public street right-of-way. These private encroachments (such as landscaping, fences, planter boxes – even houses) have significantly narrowed the space available for public use on these beach streets. In fact, previous research by the Commission in the Live Oak beach area indicates that, on average, approximately 15 feet (or about 30%) of the width of each Live Oak beach area public street right-of-way has been otherwise covered with private development.⁹

The street right-of-way encroachments in Live Oak represent an uncompensated private use of public property and a loss of public access opportunities such as biking, walking, and parking. This public loss is particularly relevant in this area given the recreational importance of the Live Oak beaches. By eliminating large portions of the roadway that could otherwise be developed for on-street parking and other roadside improvements, the implementation of the above-referenced Santa Cruz County LCP policies and programs calling for improved parking and recreational access facilities becomes more difficult to achieve in the Live Oak beach area.

C. Substantial Issue Determination – Public Access and Recreation

It is within the above-described regional coastal access context that the subject appeal is before the Commission. Based on this context, it could be argued that Live Oak beach area street improvement projects should reclaim the public right-of-way for public uses to ensure that public access is maximized and that the public right-of-way is protected from interference with non-public uses. In this case, much of the public road rights-of-way would be allowed to stay covered with private encroachments by the project as approved by the County. This coverage ranges from 5 to 15 feet (or roughly 10% to 25%) of the 30th Avenue and Hawes Drive right-of-way, up to 25 feet (or roughly 50%) of the Calla and 32nd Avenue right-of-ways. On 30th Avenue, the project area street with the most comprehensive set of planned improvements; these encroachments would be limited to 5 to 12 feet. Because these 30th Avenue improvements would effectively define the public-private boundary with sidewalks and curb/gutter, this 5 to 12 foot area (or roughly 10% to 25% of the public right-of-way) would be lost to public access for all practical purposes. On the side streets where new paving and paved drainage swales are proposed (32nd Avenue, Hawes Drive, and Calla Drive), the undeveloped area on the residential sides of the swales would be left alone and would, in most cases, still generally provide for on-street parking. This side-area would, however, continue to have a variety of private encroachments into the right-of-way (e.g., fences and landscaping). Because the swales would appear to define the public-

⁹ Live Oak Access Strategy: Administrative Draft (January 1997)



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private boundary, these potential on-street parking areas between the swales and the edge of the right-of-way could be lost to additional encroachments or other access-barring private development.

In addition, the County approved project did not include any provisions for a signage program designed to (a) remove privately-posted signs restricting parking in the public right-of-way, and/or (b) install public parking signs so that it was clear that the public was allowed to park in the right-of-way areas between the swales and the edge of the right-of-way. Such a sign program is identified by LCP Program 7.7(f). The project area would remain at least partially within the Live Oak Preferential Permit Parking Program area.¹⁰

Because the project does not use the full right-of-way, potential public parking, trail, streetscape, and related public amenities in the unused public area are foregone. Although parking would be generally enhanced on 30th Avenue, public improvements on 30th Avenue are crowded into a tighter space leaving little room for landscape strips, bike lanes, and/or a sidewalk on the opposite side of the street to better enhance the public's ability to access and enjoy the coast. On the side streets, the public's ability to use the public area between the proposed swales and the public right-of-way will remain compromised since private development will remain in this area and affirmative signage (that could serve to reinforce the public nature of this strip) has not been proposed nor required. On East Cliff, the public-private separation (i.e., curb and gutter) would be constructed in such a way as to allow private encroachments to remain, potentially prejudicing future East Cliff Drive projects.¹¹

4. Public Access and Recreation Conclusion

The proposed project is located in a heavily used public coastal access area that is beset by a lack of public access amenities and parking. The LCP requires that public access be maximized and protected. Though the project would enhance public access in some respects, it does not use the full right-of-way and it defines the public-private separation in such a way that the public's continued use of public lands is neither maximized nor assured. As a result, public parking areas along the affected side streets are not adequately protected, and the potential for public access improvements in the project area (i.e., landscaping, pathways, bike lanes, etc.) is lost. In urban recreational coastal areas such as Live Oak, where recreational amenities are in high demand, where land available for such amenities is limited, and where coastal land costs are expensive, any street improvement project that does not maximize use of the right-of-way for public purposes is particularly troublesome in light of LCP and policies protecting public access.

The Commission finds that the proposed project raises a substantial issue with the LCP's public access and recreation policies cited in this finding.

¹⁰ Commission staff is currently researching the permitting history of the LOPP to determine more precisely the parameters under which such program operates. As of the date of this staff report, the permit status of the preferential parking program in the Live Oak beach area is unclear.

¹¹ There are plans for major street improvement projects on East Cliff Drive here at Pleasure Point and upcoast at Twin Lakes State Beach currently in the works. In addition, the County has indicated that the entire length of East Cliff Drive between the Cities of Santa Cruz (at the Santa Cruz Harbor) and Capitola (at Opal Cliffs) may eventually be improved.



B. Visual Resources

1. Applicable Policies

The County's LCP is fiercely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline. The LCP states:

Objective 5.10.a Protection of Visual Resources. To identify, protect, and restore the aesthetic values of visual resources.

Objective 5.10.b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.

LUP Policy 5.10.2 Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section....

LUP Policy 5.10.3 Protection of Public Vistas. Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

IP Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility. The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.

IP Section 13.20.130(d)(1) Beach Viewsheds, Blufftop Development. The following Design Criteria shall apply to all projects located on blufftops and visible from beaches: Blufftop development and landscaping...in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive.

Visual access to and along the coast is also a form of public access. For the outfall portion of the project seaward of the first through public road, the following visual access policies of the Coastal Act also apply:

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry



sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

2. Consistency with Applicable LCP Policies

The LCP protects the public viewshed in Pleasure Point. This includes the public streetscape along the project area streets. Because the right-of-way would not be fully used under the County approval (see access and recreation findings above), public hardscape would be confined into a narrow area as opposed to breaking up such hardscape with landscaping and other such soft features within the wider available right-of-way area. In other words, with less street width to work with, the entire public area is given over to paved improvements to accomplish public access goals such as parking and pathways. This is particularly evident on 30th Avenue where the 5 to 12 feet of public right-of-way foregone (roughly 10% to 25% of the right-of-way) could be used to separate vehicular from pedestrian traffic with landscaping strips that could serve to both soften the streetscape and provide a better pedestrian experience.

Furthermore, although the outfall portion of the proposed project would replace an old rusty pipe and would be colorized to match the bluff, it could adversely impact views from the water, including the heavily used surfing area directly offshore here.

While such visual issues may not on their own rise to the level of a substantial issue, when considered in tandem with the overall issues detailed in these findings, the Commission finds that the proposed project raises a substantial issue with the Coastal Act's visual access policies and the LCP's visual resource policies cited in this finding.

C. Marine and Offshore Recreational Resources

1. Applicable Policies

Objective 5.4 Monterey Bay and Coastal Water Quality. *To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.*



Objective 5.7 Maintaining Surface Water Quality. *To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.*

Policy 5.4.1 Protecting the Monterey Bay National Marine Sanctuary from Adverse Impacts. *Prohibit activities which could adversely impact sensitive habitats of the Monterey Bay National Marine Sanctuary, including the discharge of wastes and hazardous materials. The main sources of concern are wastewater discharge, urban runoff, toxic agricultural drainage water, including that originating outside of Santa Cruz County, and the accidental release of oil or other hazardous material from coastal tanker traffic.*

Program 5.4(a). *Continue to coordinate with federal, state and other local agencies, including NOAA, California Coastal Commission, Regional Water Quality Control Board, and AMB AG to manage and protect the resources of the Monterey Bay National Marine Sanctuary.*

Policy 5.3.1 Support the Monterey Bay Sanctuary. *Support the mission of the Monterey Bay National Marine Sanctuary to facilitate the long-term management, protection, understanding and awareness of its resources and qualities.*

Policy 5.4.14 Water Pollution from Urban Runoff. *Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.*

Policy 5.7.1 Impacts from New Development on Water Quality. *Prohibit new development adjacent to marshes, streams and bodies of water if such development would cause adverse impacts on water quality which cannot be fully mitigated.*

Policy 5.7.4 Control Surface Runoff. *New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.*

Policy 7.23.1 New Development. *...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and in other areas as feasible.*

Policy 7.23.2 Minimizing Impervious Surfaces. *Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.*



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Policy 7.23.5 Control Surface Runoff. *Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:...(b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.*

Because the outfall portion of the project is located seaward of the first through public road (East Cliff Drive), Coastal Act access and recreation policies are also applicable. Coastal Act Sections 30210 through 30214, 30220 through 30224, and 30240(b) specifically protect the offshore Pleasure Point surfing area. In particular:

Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211. *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred....*

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Coastal Act Section 30240(b) also protects the offshore recreation area here. Section 30240(b) states:

Section 30240(b). *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

2. County-Approved Project

The County-approved project would increase impervious surfacing in the project area (through additional pavement areas and sidewalks). All project-area runoff would be collected in a new storm drain system that would deliver the runoff through silt and grease traps and into the Monterey Bay via an outfall designed to replace the exiting outfall that currently collects runoff from East Cliff Drive and limited portions of the project area streets. The County conditioned the project for silt and grease traps upstream of the drainage outfall, and for a long-term monitoring and maintenance program for the silt and grease trap filtering mechanisms (see Exhibit B). The runoff would be directed onto a bedrock



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platform adjacent to the main Pleasure Point surfing area.

3. Consistency with Applicable LCP and Coastal Act Policies

The LCP dictates that impervious surfaces be minimized, pre-development runoff rates be maintained, and that everything possible is done to protect the water quality of Monterey Bay.

The sewer line portion of the project (i.e., replacing sewer lines under the affected street reaches) embraces these LCP goals since this segment of the Santa Cruz County Sanitation District collection system has been plagued by inflow and infiltration problems for a number of years. By replacing the lines, it is to be expected that the escape of untreated sewage (and pathogens dangerous to human and aquatic health) would be reduced.

For the drainage portion of the project, however, there are competing LCP water quality and runoff policy objectives at play here. Street improvements designed to provide on-street parking and to provide pedestrian walkways on streets not so developed tend to result in additional areas of impervious surface. That is certainly the case here. In fact, since a primary focus of the project is to better collect runoff (and improve drainage/flooding problems on the affected streets), it is difficult to assert that the subject project has minimized impervious surfacing and maintained pre-development runoff rates as required by the LCP. In fact, additional impervious surfacing and increased runoff rates are expected with the proposed project. Accordingly, an LCP conformance question is raised.

However, although the County could have considered non-traditional permeable materials for the requisite drainage and parking areas (for example, turf block, pervious pavement, vegetated filter strips, etc.), such an issue does not of itself rise to the level of a substantial LCP conformance issue. This is partly because of the need to balance these issues against the public access improvements, and partly because of the need to address serious drainage problems affecting residence along these streets because there is not a formal curb/gutter and/or drainage system here. It is also partly because of the nature of the project. The use of porous/permeable surface treatment materials (such as turf block, pavers, cobbles, etc.) which allow for some runoff infiltration, are generally reserved for less frequently used parking areas (such as emergency access roads and parking overflow areas) where heavy use and loads are not anticipated. These types of treatments are not generally recommended for primary parking and vehicular areas because of the heavy maintenance involved and the fact that automobile-related polluted runoff constituents can then percolate directly into soils (thence into groundwater seeps and ultimately to the ocean).

More troubling, however, is the fact that the runoff from these streets would be directed into the Monterey Bay National Marine Sanctuary at the site of one of the State's more famous – and heavily used – recreational surfing areas (i.e., Pleasure Point) directly offshore. The Sanctuary is home to some 26 Federal and State Endangered and Threatened species and a vast diversity of other marine organisms. Pleasure Point attracts surfers from far and wide to tackle the consistent line of surf wrapping around the headland and heading downcoast to Capitola here. As such, the Commission recognizes the marine and recreational resources involved with the proposed project as sensitive coastal resources that are of state



and federal importance.

The increase in urban runoff directly to the Monterey Bay could negatively impact marine and recreational resources and water quality by contributing additional urban contaminants to the recreational surfing area there. Urban runoff is known to carry a wide range of pollutants including nutrients, sediments, trash and debris, heavy metals, pathogens, petroleum hydrocarbons, and synthetic organics such as pesticides. Urban runoff can also alter the physical, chemical, and biological characteristics of water bodies to the detriment of aquatic and terrestrial organisms.¹² Such impacts would be at the expense of two of the State and nation's great treasures, the Monterey Bay and the Pleasure Point surfing area. Such impacts raise questions of consistency with the above-referenced LCP and Coastal Act policies protecting these resources.

The County has addressed such runoff concerns to a degree in that the project would include silt and grease traps at two downstream locations prior to discharge into the Bay. Such traps are regularly installed by County Public Works in County projects and the County approval includes a requirement for long term maintenance of the units. Although these proposed traps would serve to filter the runoff to some degree, in light of the special resource found offshore here, it is not clear that such traps are adequately protective of coastal resources. It is Commission staff's understanding that these devices provide only a minimum amount of protection, are often problematic especially when not properly maintained, and are inadequately sized to filter larger rain events.

4. Conclusion

Due to the nature of the offshore resource at this location, the Commission finds that the most cautious runoff approach is warranted in this case to adequately protect significant Bay and recreational surfing resources. In other words, careful attention should be paid to protect the water quality of offshore Monterey Bay and Pleasure Point consistent with the protection guaranteed by the LCP and the Coastal Act. Although the silt and grease traps proposed would filter polluted runoff to a degree, there are more appropriate filtration systems available to address urban runoff pollutants in applications like this.

Therefore the Commission finds that the proposed project raises a substantial issue with the LCP and Coastal Act marine and recreational resource policies cited in this finding.

D. Community Character

1. Applicable Policies

The LCP recognizes the Live Oak beach area as a special area. The LCP states:

¹² Pollutants of concern found in urban runoff include, but are not limited to: sediments; nutrients (nitrogen, phosphorous, etc.); pathogens (bacteria, viruses, etc.); oxygen demanding substances (plant debris, animal wastes, etc.); petroleum hydrocarbons (oil, grease, solvents, etc.); heavy metals (lead, zinc, cadmium, copper, etc.); toxic pollutants; floatables (litter, yard wastes, etc.); synthetic organics (pesticides, herbicides, PCBs, etc.); and physical changed parameters (freshwater, salinity, temperature, dissolved oxygen).



Objective 8.8, Villages, Towns and Special Communities. *To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.*

LUP Policy 8.8.1 Design Guideline for Unique Areas. *Develop specific design guidelines and/or standards for well-defined villages, towns and communities.... New development within these areas listed in Figure 8-1...shall conform to the adopted plans for these areas, as plans become available.*

Figure 8-1 Areas with Special Design Criteria or Guidelines....*Area: Live Oak Planning Area; Design Guideline Source: Live Oak Community Plan (to be completed)...*

LUP Program 8.7(c). *Develop and maintain tree planting standards for new development to ensure adequate screening and softening of the effects of new buildings and to reduce the linear appearance of streets, sidewalks, and building planes.*

IP Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility. *The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

2. County-Approved Project

The County-approved project would formalize the street edges of a major entry point into Pleasure Point (i.e., 30th Avenue). Although the inland portion of 30th Avenue is already formally developed with curbs, gutter and a sidewalk (on one side of the street) from inland Portola Drive to Scriver Street, the affected reach of 30th Avenue from Scriver to East Cliff Drive currently lacks a formal street edge. See County-Approved plans in Exhibit A.

3. Consistency with Applicable LCP and Coastal Act Policies

The LCP indicates that the Live Oak area as a whole is an area with “special design criteria or guidelines” (LUP Figure 8-1). Unfortunately, the implementation portion of this special design criteria has not been developed to date as the Live Oak Community Plan, despite efforts over the years (including an administrative draft of this plan as recently as 1996), remains incomplete. Within this larger Live Oak area, the Harbor Area and the East Cliff Village Tourist Area (roughly a mile to the east of the proposed project) are defined as Coastal Special Communities (LUP Policy 8.8.2) within which specific design criteria must be applied (IP Section 13.20.144 and 13.20.145); the Pleasure Point area is not so defined by the LCP. That is not to say, however, that the Pleasure Point area is not a special community area. This area has an informal, beach community aesthetic and ambiance that clearly distinguishes this area from inland commercial areas as well as the downcoast Opal Cliffs neighborhood



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towards Capitola. Though certainly in the midst of a gentrification that has intensified over the last decade, the Pleasure Point area retains its informal charm and appeal.

The LCP requires that the proposed project “be visually compatible and integrated with the character of the surrounding neighborhoods or areas” (IP Section 13.20.130(b)(1)). The formalization of 30th Avenue with curb, gutters, and a sidewalk along 30th Avenue will most certainly alter the existing aesthetic there. This is particularly the case given that the proposed design includes very linear forms as opposed to more amorphous roads and pathways, contrary to LUP guidance (LUP Program 8.7(c)). The other affected streets would be less formally altered since drainage swales would be installed and not formal street edges (i.e., curb and gutter).

The LCP protects the unique Pleasure Point community character. The County-approved project would modify this character. As the first large-scale public street improvement project in this area, the project may set the tone for future street improvement efforts. Because of this, it is important to ensure that this project maximizes public access and recreation opportunities, protects the community character, and provides a model for influencing future efforts. It can be expected that the results this project will be indicative of the future streetscape scene for Pleasure Point and Live Oak, where a number of other major planned street improvements projects in the works (including major East Cliff Drive projects).

While such community character issues may not on their own rise to the level of a substantial issue, when considered in tandem with the overall issues detailed in these findings, the Commission finds that the proposed project raises a substantial issue with the LCP’s community character policies cited in this finding.

E. Substantial Issue Conclusion

The LCP and Coastal Act protect existing public access areas, such as the subject road rights-of-way, and require public access and recreation to be maximized. Because the project does not maximize the use of the full right-of-way, potential public parking, trail, streetscape, and related public amenities are foregone. A substantial LCP conformance issue is therefore raised.

The LCP and Coastal Act protect the public viewshed in Pleasure Point. Because the right-of-way would not be fully used under the County approval, public hardscape would be confined into a limited area as opposed to breaking up such hardscape with landscaping and other such soft features within the wider available right-of-way area. Hence, a substantial LCP conformance issue is raised.

The LCP and Coastal Act protect the offshore Monterey Bay National Marine Sanctuary and the offshore Pleasure Point surfing area. Because drainage would be directed into the Pleasure Point surf area and the Sanctuary with only silt and grease traps to address polluted runoff, a substantial LCP conformance issue is raised.

The LCP protects the unique Pleasure Point community character. The County-approved project design raises questions of compatibility with the special community character in Pleasure Point; the importance



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of these questions is heightened by the potential to prejudice future street improvement efforts if the subject design is emulated in these projects. Because of this, a substantial LCP conformance issue is raised

Therefore, the Commission finds that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program and takes jurisdiction over the coastal development permit for this project.

11. Coastal Development Permit Findings

By finding a substantial issue in terms of the project's conformance with the certified LCP, the Commission takes jurisdiction over the CDP for the proposed project. The standard of review for this CDP determination is the County LCP and the Coastal Act's access and recreation policies for the outfall portion of the project seaward of east Cliff Drive. The substantial issue findings above are incorporated herein by reference.

A. Modified Approvable Project

In order to achieve a project that can be found consistent with the LCP and Coastal Act policies described in these findings, the proposed project must be modified in three important areas so as to: (1) protect and maximize public access, specifically public access parking; (2) adequately filter and treat project runoff before it is allowed to enter the offshore Pleasure Point surf area that is a part of the Monterey Bay National Marine Sanctuary; and (3) protect the community character and aesthetic of the Pleasure Point area.

A new approach versus minor modifications

There are a broad range of methods that could be applied to achieve such policy consistency in this case. These need to be understood as existing along a spectrum that on one end would disregard the engineering and plans developed to date by the County in favor of a "new approach" for the project, and on the other end would recognize the work done to date by the County as a serious attempt to improve public access that can be modified around the edges to achieve policy consistency through "minor alterations."

In the absence of formal plans for the proposed project (for example, were County and Commission staff working together on design concepts before such plans had been developed), the project could be re-envisioned using a series of design concepts that seem most appropriate to this critical public recreational area and the community's character (i.e., the "new approach" method). For example, the project could make use the following: informal sidewalks made of pervious materials (e.g., decomposed granite) meandering informally and curvilinearly through wider landscaped strips on one or both sides of street (separated by landscaping) to accomplish a more informal ambiance; a meandering curvilinear roadway prism (i.e., within the right-of-way) that serves to again soften the appearance of the road



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improvements consistent with the community aesthetic as well as to calm traffic and maintain a neighborhood scale to the improvements; diagonal parking bays with street trees and landscaped bulbs-outs at uneven intervals to increase parking supply and to screen/disguise such parking at the same time; filter strips, grassy swales, and other “soft” treatment and filtration best management practices to cleanse runoff from vehicular surfaces as opposed to relying upon end-of-the-pipe engineering solutions; benches within landscape strips to provide a neighborhood scale and feel to the street; decorative street lighting; bike lanes; undergrounding of overhead utilities; and clear signage directing users to the beach, to other recreational use areas, and to parking.

Such design concepts would be more in keeping with the community character, scale, and aesthetic than would be the more rigid designs proposed in which the street would be defined by a straight-line curb and gutter, a straight-line concrete sidewalk connected to the curb and gutter, standard parallel parking along the street, and end-of-the-pipe water quality control using silt and grease traps only (see Exhibit A for proposed plans).

However, in order to implement many of such design concepts, using the full public street right-of-way would be necessary to be able to have adequate space within which to install and develop such features. More importantly, the County would need to start over with all new engineering plans and specifications. In light of the fact that a great deal of public funds have already been invested in planning for what the County has developed as a public access improvement project, and in light of the fact that many of the design concepts are judgement calls over what best describes the community character and aesthetic with which reasonable persons can disagree, the best public policy approach in this case appears to not be the “new approach” method that would scrap the project and start over, but rather the “minor alteration” method that would achieve policy consistency through minor modifications to the project. This minor alteration approach acknowledges the fact that the County has tried to develop a project consistent with character of the area, but is hamstrung by the lack of design specificity given the absence of the Live Oak Community Plan identified by the LCP as the implementing design vehicle for this area. This approach likewise acknowledges the fact that, although 30th Avenue would be completely redefined, the other affected streets are only slated for drainage improvements and not curb, gutters, sidewalks, and other more formal project elements.

While minor alterations are appropriate in this case, the Commission is not endorsing the design treatment here as appropriate for all future street improvement projects in Live Oak and Pleasure Point. The work along 30th Avenue should be seen in this case as a continuation of work done to date on 30th from Portola Drive to Scriver Street in its function as a main vertical connector from inland areas into the beach area, and not as indicative of the character, scale, and neighborhood aesthetic for which Live Oak beach area street improvements should strive (i.e., the design concepts described above); the same holds true when it comes time to define design guidelines in the Live Oak Community Plan.

Commission and County Staff Coordination on Project Modifications

Since the appeal was filed, Commission staff has been working closely with County staff from the Redevelopment Agency, Public Works Department, Planning Department, and County Counsel’s office



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on the “minor modifications” that would be necessary to result in a modified approvable project. Ultimately, Commission staff and County staff agreed to project modifications that would ensure Coastal Act and LCP consistency. The recommended conditions of this approval encompass this staff level agreement; the main elements of which are described below.

Parking and signs

In terms of parking, the goal is to ensure that the public is afforded the opportunity to use the public street right-of-way along the affected streets for parking. For the 30th Avenue component of the project, this is already accomplished inasmuch as the County-approved project provides for parallel parking lanes on both sides of the street (see proposed plans, Exhibit A). For the side streets, this can be accomplished by ensuring that adequate space (roughly 8 feet) is provided on either side of the affected streets to allow for a vehicle to park. Part of the difficulty in ensuring this adequate space on these side streets is the fact that some of the public right-of-way area is occupied by private development (see public access finding for more detail). However, this problem seems more daunting than it actually is. Commission staff and County Public Works staff verified that within the project area, this could be accomplished through removing minor structures from the street frontage in 3 locations involving only 2 properties (see photos); the overwhelming majority of private development within the right-of-way would remain unaffected.

That is not to say that the Commission condones private development within the public right-of-way. Rather, the Commission recognizes that these side streets are not being fully improved with this project, only drainage improvements and re-paving. As such, the debate over the ultimate disposition of private development within the public right-of-way is better left until such time as a planning solution can be developed (for example, within the Live Oak Community Plan) and/or major street improvement projects are undertaken that formally define the edge of the public space; particularly if in the interim the public’s ability to park along these side streets is not compromised.

In order to ensure that the public parking area is clearly defined, street striping (heretofore planned only for 30th Avenue) needs to be extended onto the side streets as well. In this way, (and in tandem with the parking directional signs that already exist in many locations within Live Oak informing visitors that they can park to the right of the white lines), it is clear to the public that the space to the right of the stripe is public right-of-way that can be used on a first-come, first-serve basis for public parking. Signs at the intersections within the affected street area will ensure that the parking-striping connection is clear to all who use the affected streets and represent an extension of what the County already does within the Live Oak beach area.



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Any privately-posted signs that indicate “no parking,” “tenant parking only,” “tow-away zone” and other similar sentiments designed to restrict public parking must be removed to the extent they are directed to the public right-of-way. Adequate explanation will be required to retain any County-posted signs that restrict parking (e.g., to ensure access to a fire hydrant); otherwise such signs shall likewise be removed.

This approval does not authorize any extension of the Live Oak preferential parking program into the affected area. To the extent this preferential parking program is authorized by a valid coastal development permit, this approval does not affect this program.¹³



Also, appropriate signs to identify 30th Avenue as a public access route to the shoreline from inland Portola Drive will ensure that visitors are adequately directed to the beach recreational area, and are not forced to circulate through the beach neighborhoods unnecessarily to determine their location relative to the shoreline.

And finally, so that it is clear that the public parking spaces are within the public right-of-way, a notification letter needs to be sent to all property owners and residents along the affected streets describing the extent of the public right-of-way for each street, the need to maintain the 8 foot public parking area to the right of the white striping on the affected streets, and the need to keep the area free of privately-posted signs that act to restrict public parking in the public right-of-way.



As such, and only as so conditioned, the project can be found consistent with the applicable LCP and Coastal Act public access policies detailed in these findings. See Special Conditions 1, 2, and 4.

¹³

Commission staff is currently researching the permitting history of the LOPP to determine the parameters under which such program operates. As of the date of this staff report, the permit status of the preferential parking program in the Live Oak beach area is unclear.



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It should be noted that 33rd Avenue is addressed differently than the other side streets in the modified project. The County indicates that 33rd Avenue is not a County maintained roadway. This means that the County does not consider 33rd Avenue to be County property. However, the County has not to date done the legal research to determine whether this is the case. Absent verification that 33rd Avenue is not a public roadway, the Commission's rebuttable presumption is that this is public property just like the other streets in the Pleasure Point area. That said, the physical constraints on 33rd dictate a different approach than the other affected side streets. First, unlike the other streets, the right-of-way at 33rd is limited to 25 feet; it serves as more of an alley than a through street. Because of this, available space within which to accommodate parking is extremely limited. Given the alley-like nature of this street and the unresolved property ownership issues, the 8-foot wide parking space requirement would not apply to 33rd. Modifications would be limited to parking signage at its intersections with East Cliff Drive and Hawes Drive.

Runoff into the Pleasure Point Surf area and the MBNMS

Since the starting point is the project plans and engineering specifications developed to date by the County, there is insufficient space within which to install filter strips, grassy swales, and other "soft" treatment and filtration best management practices to cleanse runoff from vehicular surfaces. Because of these imposed constraints, County and Commission staff concurs that an end-of-the-pipe engineering solution is the best approach in this particular case. The County indicates that the project has been split into two sub-watersheds with drainage directed to the bluff edge at the Pleasure Point surf area.

After consultation, County and Commission staff agreed that it would be a valuable test to install two different end-of-the-pipe treatment and filtration devices, one for each sub-watershed, and to compare the water-quality effectiveness of these devices against each other as well as the County's standard silt and grease trap and an unfiltered outlet. Since there is a drainage basin immediately adjacent that drains into the Pleasure Point surf area and the Sanctuary through a silt and grease trap, and there is also an separate unfiltered discharge point next to that, a comparative monitoring study could be undertaken that would be based on very similar runoff constituents and drainages. The intent would be to better understand the water quality benefits achieved for each of the three engineered devices, and the costs, including maintenance, necessary to achieve them. In other words, the monitoring program will include a cost-benefit analysis of the different device options being tested.

Towards this end, it was agreed that devices that filtered and treated runoff as opposed to acting simply as settling and/or detention basins would be chosen for each of the two sub-watersheds. To date, County and Commission water quality staffs have agreed to the specifications for one of these devices and are working closely together to identify appropriate specifications for a second device. The intent would be for the second device to filter and treat runoff in a different manner than the first device so as to maximize the value of the comparative monitoring. Monitoring would take place over the course of 5 years. All of these provisions are reflected in Condition #3.

As such, and only as so conditioned in order to protect the water quality of offshore Monterey Bay and Pleasure Point consistent with the protection guaranteed by the LCP and the Coastal Act, the project can



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be found consistent with the applicable LCP and Coastal Act marine and recreational resource policies detailed in these findings. See Special Condition 3.

Modified Approvable Project Conclusion

The Live Oak beach area overall, and the Pleasure Point area in particular, are coastal recreational resources of great local and regional importance. Parking is extremely difficult in this area, and recreational amenities and improvements (such as through trails/sidewalks) are in high demand. Publicly available property with which to construct such improvements is lacking; rising coastal land costs assure that this lack of available public lands will continue to be an issue in this area. This is particularly true in the subject Pleasure Point area. The LCP contains multiple policies and programs detailing the need for access and recreational enhancement and maximization in the Live Oak beach area; the Coastal Act likewise supports and embraces such goals.

Within this LCP and Coastal Act access context, street improvement projects (such as this) must maximize use of Live Oak beach area public lands for public purposes. In other words, the full extent of the public's right-of-way should be protected and used for the public good. Moreover, such improvements should be sensitive to the neighbor community character and aesthetic. Every effort also should be taken to cleanse urban runoff to adequately protect significant Monterey Bay Sanctuary and recreational swimming and surfing resources.

To ensure LCP and Coastal Act consistency, conditions are included to maximize public access and recreation opportunities as directed by the certified County LCP and the Coastal Act. This is achieved by ensuring public parking on both sides of the affected streets, installation of public parking signage and striping, removal of limited private encroachments in the public right-of-way, and notification to affected property owners regarding the true extent and public nature of the affected street rights-of-way. In addition, all runoff from the project is required to be filtered and treated by an engineered filtration system in conjunction with a comparative performance monitoring program.

By conditioning the proposed project in all of these ways, the Commission finds that the project can be found consistent with the certified Santa Cruz County LCP and the access and recreation policies of the Coastal Act as applicable. All other conditions imposed on the project under an authority other than the Coastal Act remain in full force and effect. See Special Condition 5.

B. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.



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Santa Cruz County issued a mitigated Negative Declaration for the proposed project in January 2000. Commission staff commented on the project at that time and raised the same issues discussed in these findings (see Exhibit E for staff letter). County staff responded to Commission staff's comment letter, but the project was not altered to adequately address the identified concerns (see County response letter Exhibit F). Ultimately, the adopted County staff report indicates that the County Planning Department shared many of the same concerns identified by Commission staff, but that the limited scope of the project did not allow for these issues to be addressed (see page 3 of the County staff report on the project, Exhibit B). Ultimately, on March 17, 2000, the Negative Declaration was certified by the Board of Supervisors when they approved the proposed project.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. As discussed in this staff report, there are both feasible alternatives and feasible mitigation measures available to substantially lessen significant adverse effects on public access, public recreation, visual resources, marine resources, and community character and aesthetics due to the proposed project. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.



California Coastal Commission